

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

MARK HOFFMAN and PATRICIA
HOFFMAN, a marital community,

Plaintiffs,

vs.

STATE FARM FIRE AND CASUALTY
COMPANY, a foreign corporation, and
WEST SOUND PROPERTY
MANAGEMENT, LLC dba
WINDERMERE PROPERTY
MANAGEMENT / WEST SOUND, a
Washington limited liability company.

Defendants

NO.

**NOTICE OF REMOVAL OF CIVIL
ACTION PURSUANT TO
28 U.S.C. § 1441**

TO: CLERK OF THE COURT

AND TO: MARK HOFFMAN AND PATRICIA HOFFMAN, PLAINTIFFS

AND TO: BRUCE WINCHELL AND JANNA J. ANNEST, OF MILLS MEYERS AND SWARTLING, ATTORNEYS FOR PLAINTIFFS

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1441 and 1446, defendant State Farm Fire and Casualty Company hereby removes the Kitsap County Superior Court action described below to the United States District Court for the Western District of Washington at Tacoma. In support thereof, defendant states as follows:

**NOTICE OF REMOVAL OF CIVIL ACTION
PURSUANT TO 28 U.S.C. § 1441-1**

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REED MCCLURE
ATTORNEYS AT LAW
FINANCIAL CENTER
1215 FOURTH AVENUE, SUITE 1700
SEATTLE, WASHINGTON 98161-1087
(206) 292-4900; FAX: (206) 223-0152

1 1. On June 22, 2015, Mark Hoffman and Patricia Hoffman (“plaintiffs”) filed a
 2 civil action in Kitsap County Superior Court against State Farm Fire and Casualty Company
 3 (“State Farm”) and West Sound Property Management, LLC dba Windermere Property
 4 Management/West Sound (“West Sound”), under Cause No. 15-2-01226-8. On June 19, 2015,
 5 counsel for plaintiffs provided to State Farm by service through the Insurance Commissioner of
 6 Washington a “Complaint for Damages” for that action. On December 18, 2015, plaintiffs
 7 filed an Amended Complaint for Damages.

8 2. The Amended Complaint for Damages seeks damages against State Farm for
 9 alleged breach of contract, bad faith, and violation of the Consumer Protection Act and the
 10 Insurance Fair Conduct Act. The breach of contract claim has been dismissed on summary
 11 judgment. A copy of the Amended Complaint for Damages is submitted as an exhibit with this
 12 Notice of Removal.

13 3. At the time plaintiffs served State Farm with the complaint for damages, the
 14 action lacked diversity of citizenship as defined in 28 U.S.C. § 1332. Plaintiffs resided in King
 15 County, Washington. (Amended Complaint for Damages, ¶ 1.1) State Farm is an Illinois
 16 corporation with its principal place of business in Illinois. (See *id.*, ¶ 1.2) West Sound is a
 17 Washington limited liability company. (*Id.*, ¶ 1.3) Since plaintiffs and West Sound were both
 18 citizens of Washington, the action was not removable at that time.

19 4. On June 9, 2016, counsel for plaintiffs electronically served counsel for State
 20 Farm with a Stipulation and [Proposed] Order of Dismissal With Prejudice, signed by counsel
 21 for plaintiffs and counsel for West Sound, which would dismiss all claims against West Sound
 22 with prejudice. The electronic mail stated that the document was sent to the court by mail that
 23 day.

24
 25

NOTICE OF REMOVAL OF CIVIL ACTION
 PURSUANT TO 28 U.S.C. § 1441 – 2

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1 5. With the dismissal of West Sound as a party, this action is one in which the
2 United States District Court is given original jurisdiction by reason of complete diversity of
3 citizenship and the requisite amount in controversy pursuant to Title 28 U.S.C. § 1332.

4 6. Venue is proper in the United States District Court for the Western District of
5 Washington, in that State Farm conducts business in Kitsap County, Washington, and State
6 Farm is subject to personal jurisdiction there. (Amended Complaint for Damages, ¶ 1.2) 28
7 U.S.C. § 1391.

8 7. The suit is between plaintiffs Mark Hoffman and Patricia Hoffman, residents of
9 King County, Washington, and defendant State Farm Fire and Casualty Company, an Illinois
10 corporation with its principal place of business in Illinois.

11 8. State Farm has a good-faith belief that the amount in controversy exceeds
12 \$75,000 exclusive of interest and costs. Prior to filing suit, plaintiffs claimed their damages
13 totaled approximately \$200,000, and offered to settle their claims for \$135,000. Since filing
14 suit, plaintiffs have asserted their damages exceed \$115,000, not including fees and costs
15 incurred in the litigation. They have requested that the court treble their alleged damages under
16 the Insurance Fair Conduct Act. (Amended Complaint for Damages, prayer for relief at 7)
17 Their settlement demand has increased.

18 9. Removal to federal court is appropriate in any civil action brought in state court
19 over which the federal district court has original jurisdiction. 28 U.S.C. § 1441.

20 10. As of the date of the filing of this Notice of Removal of Civil Action, 30 days or
21 less have elapsed from the time this matter first became removable. State Farm first received a
22 copy of the Stipulation and [Proposed] Order of Dismissal With Prejudice on June 9, 2016.

23 11. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal of Civil
24 Action is being served upon plaintiffs' attorneys and a copy will be filed with the Clerk of the
25 Superior Court of the State of Washington for Kitsap County.

NOTICE OF REMOVAL OF CIVIL ACTION
PURSUANT TO 28 U.S.C. § 1441 – 3

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12. By filing this Notice of Removal, State Farm does not waive, and instead expressly reserves, all rights, defenses or objections of any nature that it may have with respect to plaintiffs' claims.

DATED this 15 day of June, 2016.

REED McCLURE

By Michael S. Rogers, WSBA 16423
Attorney for Defendant
1215 Fourth Avenue, Suite 1700
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NOTICE OF REMOVAL OF CIVIL ACTION
PURSUANT TO 28 U.S.C. § 1441-4

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CERTIFICATE OF SERVICE

I hereby certify that on June 20, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Bruce Winchell
Janna Annest
Mills Meyers Swartling PS
30th Floor
1000 Second Avenue
Seattle WA 98104-1064
Attorneys for Plaintiffs

Philip T. Mattern
Demco Law Firm PS
Suite 200
5224 Wilson Avenue South
Seattle WA 98118-2587
*Attorney for Defendant Windermere
Property Management West Sound*

And I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants:

N/A

DATED June 20, 2016, at Seattle, Washington.

Katherine McBride
Katherine McBride

CERTIFICATE OF SERVICE – 5